IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.250 OF 2006

Arjun Dunda Chavale ...Applicant.

V/s

The State of Maharashtra ...Respondent.
(Through Kulgaon Police Station at C.R. No.11/2005)

Mr. Sudatta J. Patil for the applicant.

Ms. M.M. Deshmukh APP for the State

CORAM: V.M. KANADE, J.

DATE: 7th February, 2006

P.C:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant was arrested in connection with an offence punishable under section 302 of the Indian Penal Code. It is alleged that on 9/6/2005, the deceased was returning home and, at that time, he was assaulted with the sword on his head and was killed. His body was found on the next day and, thereafter, a complaint was lodged. The wife of the complainant stated in her complaint that she suspected the accused No.1 Sunil Chavale and others. On 10/6/2005, the applicant was arrested. The statement of the witness,

however, is recorded on 21/7/2005. This eye witness has stated that the applicant was present at the spot. The blood stained clothes of the applicant were recovered and the Chemical Analyser's Report indicates that the blood which was found on the said clothes was human blood. However, the blood group could not be ascertained as the result was inconclusive.

3. In the present case, it is an admitted position that the dead body was found on the next day. The complaint was lodged by the wife of the complainant who was not an eye witness to the incident. The statement of the alleged eye witness was recorded on 21/7/2005 who, in his statement, states that the applicant was present at the site. He has stated that the accused - Sunil assaulted the deceased with the stone. From the evidence of the said eye witness it appears that the present applicant did not share the intention of the assailant - Sunil. Secondly, the statement of the eye witness also has been recorded after delay of 1 and half months. The charge-sheet also has been filed and the investigation is over.

4. Under these circumstances, in my view, a case is made out for grant of bail. However, the applicant is entitled to be released on bail subject to certain

stringent conditions. The applicant be released on bail in the sum of Rs 5000/- with one or two sureties in the like amount. The applicant shall not enter the jurisdiction of Kulgaon Police Station till the disposal of the case. The applicant shall give his new address to the Jail Superintendent and report to the nearest Police Station from his new residence twice in a month.

5. Application is accordingly disposed of.

V.M. KANADE, J.